



DEPARTMENT OF THE ARMY
US ARMY MEDICAL RESEARCH AND MATERIEL COMMAND
504 SCOTT STREET
FORT DETRICK, MD 21702-5012

MCMR-AAP-A

14 April 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Procurement Advisory Notice 05-06
Antideficiency Act Violations and Reports

1. **Introduction.** The Antideficiency Act (ADA) is a fiscal law contained in the United States Code (U.S.C.) at Title 31, Money and Finance. The three ADA statutes most frequently cited regarding ADA are Sections 1341, 1342, and 1517. Understanding the ADA is an important step in understanding the appropriation philosophy of the Government which is we must pay as we go.

2. **Background.** The United States Constitution gives the Congress the power of the purse. Section 9, Article 1 directs that ".....no money shall be drawn from the treasury but in consequence of an appropriation made by law." This makes the subject very clear. No one in Congress, the Executive Departments, or the Judiciary may obligate or expend public monies until Congress has exercised its constitutional duty to appropriate funds.

3. **Applicability.** Section 1341 prohibits a Government employee from making or authorizing an expenditure or obligation exceeding an amount available in an appropriation or fund. Additionally, a Government employee cannot involve the Government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law. Section 1342 prohibits a Government employee from accepting voluntary services except for emergencies involving the safety of human life or the protection of property. Section 1517 prohibits Government employees from making or authorizing an expenditure or obligation exceeding an apportionment or formal administrative subdivision of funds.

4. **Reporting.** Whenever a violation of the ADA occurs, the head of the agency or the Mayor of the District of Columbia is required to report immediately to the President and Congress all relevant facts and a statement of the actions

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taken. The Consolidated Appropriations Act of 2005 recently added another concurrent reporting requirement. The Comptroller General must also be alerted to the ADA violation. This is because the Comptroller General has been tasked to establish a central repository of ADA reports. These reports will be tracked, including responses to Comptroller General legal decisions, opinions, and findings in audit reports and financial statement reviews.

5. **Consequences.** Violators of the ADA can receive administrative penalties as severe as removal from Federal Service in particular cases. Willful violations can also be prosecuted as felonies resulting in fines and/or incarceration.

6. **Point of Contact.** Raegon B. Clutz, Chief, Policy and Quality Assurance Branch, US Army Medical Research Acquisition Activity. Raegon.Clutz@amedd.army.mil. (301) 619-2395.



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